

**MINUTES
OF THE
REGULAR MEETING OF THE
ELECTIONS COMMISSION**

DECEMBER 30, 2009

LOCATIONS

Keoni Ana Building

1177 Alakea Street, Room 302
Honolulu, Hawaii 96813

Wailuku Judiciary Building

2145 Main Street, First Floor
Wailuku, Hawaii 96793

Hilo State Office Building

75 Aupuni Street, Basement
Hilo, Hawaii 96720

Kailua Trade Center

75-5706 Hanama Place, Suite 109
Kailua-Kona, Hawaii 96740

Lihue State Office Building

3060 Eiwa Street, Basement
Lihue, Hawaii 96766

Commissioners in Attendance:

Mr. William Marston, Chair
Ms. Margaret Masunaga
Mr. Brian Nakashima
Mr. Harold Nelson
Ms. Zale Okazaki
Ms. Donna Soares
Ms. Yuki Lei Sugimura
Mr. Daniel Young

Technical Support Staff in Attendance:

Mr. Kevin Cronin, Chief Election Officer
Ms. Ciress Cuevo, Office of Elections
Mr. Scott Nago, Office of Elections
Mr. David Rosenbrock, Office of Elections
Mr. Aaron Schulaner, Office of Elections
Mr. Russell Suzuki, Department of the Attorney General
Mr. Charles Wong, Office of Elections

Guests in Attendance:

Ms. Lauren Anderson, Maui County Clerk's Office
Ms. Jean Aoki, League of Women Voters
Ms. Jo Kamae Byrne, Common Cause Hawaii
Mr. Calvert Chipcase IV, Republican Party of Hawaii
Ms. Cira de Castillo, AlohaVote.com
Mr. Bart Dame
Mr. Derrick DePledge, Honolulu Advertiser
Mr. Craig Gima, Honolulu Star Bulletin
Mr. Kenneth Goodenow, Hawaii County Clerk
Mr. Scott Jensen, Office of Council Services, Maui County
Mr. Jonah Kaauwai, Hawaii Republican Party
Mr. Erin Kealoha
Mr. Jeffrey Kuwada, Maui County Clerk
Ms. Nikki Love, Common Cause Hawaii
Ms. Shirley Magarifuji, Maui County Clerk's Office
Ms. Jo Ann Maruoka, League of Women Voters
Mr. Manolo Morales, KHON2
Ms. Pat Nakamoto, Hawaii County Clerk's Office
Mr. Peter Nakamura, Kauai County Clerk
Mr. David Raatz, Office of Council Services, Maui County
Ms. Cori Saiki, Hawaii County Clerk's Office
Mr. Glen Shikuma, Hawaii County Clerk's Office
Mr. Kimo Sutton
Mr. Lance Taguchi, Maui County Clerk's Office
Mr. Glen Takahashi, Honolulu City Clerk's Office
Ms. Katherine Thomason, Hawaii Republican Party
Mr. Karl Ubongen, Kauai County Clerk's Office
Ms. Geri Unciano, Kauai County Clerk's Office
Mr. Lyndon Yoshioka, Kauai County Clerk's Office

PROCEEDINGS

I. Call to Order

The meeting was called to order by Chair William Marston at 10:00 a.m. on December 30, 2009 at the Lihue State Office Building.

II. Roll Call and Determination of a Quorum

Ms. Ciress Cuevo, Elections Commission Secretary conducted roll call. Mr. Richard Swift was absent. Ms. Yuki Lei Sugimura and Mr. Harold Nelson were late.

III. Approval of Minutes of Meeting of December 2, 2009

Ms. Donna Soares moved to approve the minutes of the meeting of December 2, 2009. Mr. Daniel Young seconded, and the motion carried unanimously.

IV. Public Testimony – Any interested person may submit data, views or arguments on any agenda item

Mr. Warner Kimo Sutton provided written and oral testimony recommending that internet voting be used to conduct the special election for Congressional District I.

Ms. Jean Aoki, League of Women Voters provided oral testimony expressing the need to conduct the special election to fill the vacancy should Representative Abercrombie resign in the near future and that the seat should not remain vacant until September.

Mr. Peter Nakamura, Kauai County Clerk provided written and oral testimony on behalf of all the County Clerks expressing their collective support for the appointment of Mr. Scott Nago as Hawaii's next Chief Election Officer (CEO).

V. Discussion on Special Election for Congressional District I Representative Seat

In response to Mr. Daniel Young's inquiry whether Mr. Sutton's recommendation is possible, Mr. Russell Suzuki, Deputy Attorney General opined that it is not permissible under current state law, but legislation could be proposed to the Legislature.

VI. Appointment of Selection Committee to Recruit Permanent Chief Election Officer

Chair Marston recommended that the Commission conduct the recruitment for the permanent CEO the same way it did the last time. Three Commissioners are to serve on the selection committee and present the four finalists to the entire Commission. Chair Marston asked that Ms. Zale Okazaki, Ms. Donna Soares, and Mr. Daniel Young serve on the committee.

Mr. Harold Nelson moved to approve Chair Marston's recommendation. Ms. Yuki Lei Sugimura seconded, and the motion carried unanimously.

Ms. Sugimura inquired about the time frame of the recruitment and suggested that the Commission appoint a permanent CEO after the General Election. Ms. Soares stated that the selection committee will make its recommendation to the Commission.

In response to Ms. Okazaki's question whether there is a statute that limits the recruitment to local or national, Mr. Suzuki opined that there is no such statute

and that the CEO must be a U.S. citizen, Hawaii resident, and a registered voter of the State of Hawaii.

Ms. Soares explained that the recruitment process is guided by law and that the Department of Accounting & General Services (DAGS) follows the guidelines. Ms. Soares assured the Commission that the recruitment will be conducted by the letter of the law.

VII. Executive Session

- A. Pursuant to Haw. Rev. Stat. §92-5(4), consult with counsel regarding the commission's powers, duties, privileges, immunities and liabilities re:
 - 1. Babson v. Cronin, Civil No. 08-10-378(3)
 - 2. Procurement appeals (ES&S v. Cronin, Civil No. 08-101657-08, Hart InterCivic v. ES&S, Civil No. 08-1-1665-08, Cronin v. ES&S, Civil No 08-1-1680-08)
- B. Pursuant to Haw. Rev. Stat. §92-5(a)(2) and 92-5(a)(4), consider hiring an interim Chief Election Officer, evaluate qualifications and possible candidates for the position and consult with counsel on questions and issues pertaining to the commission's powers and duties with respect to the hiring or appointment of an interim Chief Election Officer.

Ms. Okazaki moved for the Commission to go into executive session. Mr. Daniel seconded, and the motion carried unanimously.

The Commission resolved to executive session at 10:28 a.m. and reconvened in open meeting at 11:00 a.m.

VIII. Appointment of Interim Chief Election Officer

Chair Marston announced that the Commission voted to appoint Mr. Scott Nago as the interim Chief Election Officer effective January 1, 2010 and asked for public comments. There were no public comments.

IX. Adjournment

Chair Marston adjourned the meeting at 11:05 a.m. The next meeting date of the Elections Commission is to be determined.

Respectfully submitted,

Ciress Cuevo
Elections Commission Secretary